

Appeal No. UKEAT/0195/13/DM

EMPLOYMENT APPEAL TRIBUNAL
FLEETBANK HOUSE, 2-6 SALISBURY SQUARE, LONDON EC4Y 8AE

At the Tribunal
On 28 October 2013

Before

HIS HONOUR JUDGE HAND QC

(SITTING ALONE)

MR R CHAUHAN

APPELLANT

DDG WINDOWS

RESPONDENT

Transcript of Proceedings

JUDGMENT

APPEARANCES

For the Appellant

No appearance or representation by
or on behalf of the Appellant

For the Respondent

MR BEYZADE BEYZADE
(Solicitor)
Astute HR Ltd
1 Quality Court
Chancery Lane
London
WC2A 1HR

SUMMARY

PRACTICE AND PROCEDURE – Striking-out/dismissal

An appeal to this Tribunal is an opportunity for a litigant to ask for a further view to be taken of his claim but it is subject to procedural rules so as to enable this Tribunal to deal not just with that appeal but with a large number of other appeals, all of which must be dealt with in an orderly fashion if this Tribunal is to function effectively. If appellants who have been granted a full hearing do not comply with the Rules, they must understand that whilst some allowance may be made initially, if there is repeated non-compliance, eventually their appeal will be dismissed, because, in the interests of the administration of justice, that matter should not take up the time of this Tribunal any further. Appeal dismissed because of non-compliance with the rules and costs of £1,500.00 ordered.

HIS HONOUR JUDGE HAND QC

1. Directions for a full hearing were given by Keith J in an order dated 29 April 2013. At paragraph 5 of the order, the parties were ordered to lodge agreed hearing bundles by no later than 28 days prior to the date fixed for the hearing or by 4.00pm on 30 September 2013. Notice of Hearing was served on 13 June 2013 together with the letter by which the Appellant's attention was drawn to the requirements to lodge the relevant bundles in accordance with the EAT Practice Direction.

2. As is standard in the case of that pro forma letter, it informed the Appellant that failure to lodge the documents might result in him being required to appear before a judge to explain his non-compliance. No bundles were lodged nor was there an application for an extension of the time already stipulated for doing so. Then, on 2 October 2013, an officer of this Tribunal extended the time for compliance to 9 October 2013. Nevertheless, the Appellant did not respond and did not lodge the bundles.

3. On 16 October 2013 an order was made by the Deputy Registrar that unless the bundle was lodged by 4.00 pm on 22 October 2013 the Appellant must appear before a Judge of this Tribunal at 10.00 am on 24 October 2013. In fact the matter was listed before me at 10.00 am on 24 October 2013. Mr Chauhan did not appear. Attempts had been made earlier, I was told, by the officer dealing with the case, to contact Mr Chauhan and again on the morning of 24 October 2013 I understood that further attempts had been made to contact Mr Chauhan by telephoning him on the number that had been supplied by him. It was a mobile telephone number. The phone rang, but it was not answered.

4. Therefore on 24 October 2013 I ordered him to inform the court by midday the following day that he intended to lodge a bundle and, subsequently, that he lodge a bundle by 9.30 am this morning. When nothing had been heard from the Appellant by midday on 25 October, further telephone calls were made. He was not contactable. No bundle has been lodged by 9.30 this morning. It is now 11.10 and nothing has been heard from Mr Chauhan.

5. Accordingly I propose to dismiss the appeal. I ought to have said that the order that I made on 24 October 2013 was in the form of an unless order that unless the bundle was lodged I might order that the appeal would be dismissed.

6. Mr Chauhan has had every opportunity to comply with the orders of this Tribunal. I propose to dismiss his appeal because of his non-compliance with the rules. The prosecution of an appeal before this Tribunal is an opportunity for a litigant to ask for a further view to be taken of his claim and of the way it was disposed of by the Employment Tribunal, but the rules are there not simply to organise and methodically direct the progress of the particular appeal, but so as to enable this Tribunal to deal with a large number of appeals, each of which must be dealt with in an orderly fashion if this Tribunal is to function effectively. If appellants who have been granted a full hearing do not comply with the Rules, they must understand that although some allowance might be made initially, and here a great deal of allowance has been made, in the event of persistent failure to comply their appeal will be dismissed, because, in the interests of the administration of justice, that matter should not take up the time of this Tribunal any further. That point has been reached in this case and I dismiss the appeal.

(Discussion with counsel)

7. In the Judgment I have just given I have explained the history of this case. Mr Beyzade, who appears on behalf of the Respondent, submits that history discloses, on the part of the Appellant, unreasonable conduct in the conduct of the proceedings. I agree that is the case. It does seem to me that, having had his appeal put through to a full hearing by Keith J, the Appellant has not conducted the appeal in accordance with the directions of this Tribunal and in accordance with the usual procedure. I accept Mr Beyzade's submission that, had the Appellant behaved sensibly, then it may not have been necessary for the Respondent to expend money on answering the appeal and dealing with the matter. There has been a fixed fee of £1,500.00 paid in respect of filing the response and dealing with the matter since then. It seems to me that some part of that sum must relate to preparing the answer which the Respondent was obliged to file in any event but this is a summary assessment of costs, which is a broad-brush procedure. I regard the costs sought by the Respondent as modest and I will award costs in the sum of £1,500.00.